

REFERENCE TITLE: international ports development

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

HB 2252

Introduced by
Representatives Jones, Mason: Fleming, Pancrazi, Senator Aguirre

AN ACT

AMENDING TITLE 28, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 28; AMENDING SECTION 41-1504, ARIZONA REVISED STATUTES; REPEALING TITLE 41, CHAPTER 10, ARTICLE 7, ARIZONA REVISED STATUTES; RELATING TO INTERNATIONAL PORTS DEVELOPMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 28, Arizona Revised Statutes, is amended by adding
3 chapter 28, to read:

4 CHAPTER 28

5 INTERNATIONAL PORTS DEVELOPMENT

6 ARTICLE 1. GENERAL PROVISIONS

7 28-9301. Definitions

8 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "ACQUIRE" MEANS PURCHASE, LEASE AS LESSEE, OBTAIN AN INTEREST AS
10 LENDER OR AS MORTGAGEE OR BENEFICIARY UNDER A DEED OF TRUST, OPERATE, ERECT,
11 BUILD, CONSTRUCT, RECONSTRUCT, REMODEL, REPAIR, REPLACE, ALTER, EXTEND,
12 BETTER, EQUIP, FURNISH, DEVELOP, IMPROVE OR EMBELLISH ANY PROPERTY, INCLUDING
13 SITE ACQUISITION, PREPARATION AND DEVELOPMENT AND ALL INCIDENTAL ACTIVITIES.

14 2. "AGREEMENT" MEANS ANY AGREEMENT, CONTRACT, NOTE, MORTGAGE, DEED OF
15 TRUST, LEASE, SUBLEASE OR OTHER SUCH INSTRUMENT ENTERED INTO BY THE
16 DEPARTMENT.

17 3. "ARIZONA-MEXICO BORDER AREA" MEANS THE GEOGRAPHIC AREA IN THIS
18 STATE THAT IS WITHIN SIXTY-TWO MILES OF THE ARIZONA-MEXICO BORDER LINE AND IN
19 MEXICO WITHIN SIX MILES OF THE ARIZONA-MEXICO BORDER LINE.

20 4. "BONDS" MEANS ANY BONDS ISSUED PURSUANT TO THIS CHAPTER.

21 5. "BORDER REGIONAL PORT AUTHORITY" MEANS A NONPROFIT ENTITY THAT IS
22 ORGANIZED IN THIS STATE PURSUANT TO TITLE 10, THAT IS BASED IN A COUNTY
23 WITHIN SIXTY-TWO MILES OF THE ARIZONA-MEXICO BORDER LINE AND THAT PROMOTES
24 TRADE AND COMMERCE WITHIN THE ARIZONA-MEXICO BORDER AREA BY:

25 (a) IMPROVING THE EFFICIENCY AND PRODUCTIVITY OF EXISTING
26 INTERNATIONAL PORTS OF ENTRY AT THE BORDER, INCLUDING THE CONSTRUCTION,
27 OPERATION AND MAINTENANCE OF THESE FACILITIES OR OTHER SUPPORTING FACILITIES.

28 (b) PROMOTING PROJECTS THAT WILL ENHANCE THE TRANSPORTATION FLOW
29 THROUGH THE PORT OF ENTRY AND THROUGHOUT THE ARIZONA-MEXICO BORDER AREA.

30 (c) PROMOTING A MEMBERSHIP THAT REFLECTS A BROAD CROSS SECTION OF
31 LOCAL GOVERNMENT, INDUSTRY, COMMERCE AND THE COMMUNITY IN GENERAL.

32 6. "COSTS" INCLUDES ALL COSTS AND EXPENSES INCURRED IN THE ISSUANCE OF
33 BONDS, INCLUDING LEGAL, ACCOUNTING, CONSULTING, PRINTING, ADVERTISING AND
34 TRAVEL COSTS AND EXPENSES, AND MAY ALSO INCLUDE INTEREST ON BONDS ISSUED
35 PURSUANT TO THIS CHAPTER FOR A REASONABLE TIME BEFORE AND DURING CONSTRUCTION
36 AND AFTER COMPLETION OF CONSTRUCTION OF ANY PROJECT.

37 7. "ENTITY" MEANS THE UNITED STATES OR ANY AGENCY OR DEPARTMENT OF THE
38 UNITED STATES, ANY STATE OR ANY AGENCY, DEPARTMENT OR POLITICAL SUBDIVISION
39 OF THIS STATE OR ANY OTHER STATE OF THE UNITED STATES, ANY INDIAN TRIBE, ANY
40 FOREIGN COUNTRY OR ANY STATE, AGENCY, DEPARTMENT OR OTHER POLITICAL
41 SUBDIVISION OF ANY FOREIGN COUNTRY, INCLUDING MEXICO AND ANY STATE, AGENCY,
42 DEPARTMENT OR OTHER POLITICAL SUBDIVISION OF MEXICO, OR ANY PUBLIC OR PRIVATE
43 CORPORATION, COMPANY, PARTNERSHIP, JOINT VENTURE, FOUNDATION, TRUST, ESTATE,
44 INDIVIDUAL OR OTHER LEGAL BUSINESS ORGANIZATION.

1 8. "PROJECT" MEANS ANY PROPERTY AND RELATED FACILITIES, WHETHER OR NOT
2 NOW IN EXISTENCE, ACQUIRED TO FACILITATE INTERNATIONAL TRADE OR COMMERCE
3 BETWEEN THIS STATE AND OTHER COUNTRIES, INCLUDING PROPERTY SUITABLE FOR ANY
4 OF THE FOLLOWING PURPOSES:

5 (a) INTERNATIONAL PORTS OF ENTRY.

6 (b) INTERNATIONAL BORDER CROSSING FACILITIES.

7 (c) TRANSPORTATION AND SHIPPING FACILITIES, INCLUDING RAILROAD, DOCK,
8 AIRPORT, HIGHWAY AND ROADWAY FACILITIES, OTHER THAN A HIGHWAY OR ROADWAY
9 UNDER THE JURISDICTION OF THE DEPARTMENT, AND INCLUDING PUBLIC
10 TRANSPORTATION, SURFACE MASS TRANSIT AND INTERMODAL SURFACE TRANSPORTATION
11 FACILITIES.

12 (d) ANY FACILITIES LOCATED OR TO BE LOCATED IN THE ARIZONA-MEXICO
13 BORDER AREA FOR ENVIRONMENTAL HEALTH PROJECTS OR FOR THE TREATMENT OR
14 DISTRIBUTION OF WATER, THE COLLECTION, TREATMENT OR DISPOSITION OF
15 WASTEWATER, SEWAGE OR SOLID WASTE, THE TREATMENT, ABATEMENT, STORAGE,
16 DISPOSITION OR TRANSPORTATION OF POLLUTANTS OR CONTAMINANTS, THE PREVENTION
17 OR ABATEMENT OF AIR POLLUTION OR THE TRANSMISSION OR TRANSPORTATION OF
18 ELECTRICITY, LIQUEFIED NATURAL GAS, NATURAL GAS AND OIL AND ITS DERIVATIVES
19 ACROSS THE UNITED STATES-MEXICO BORDER.

20 9. "PROPERTY" MEANS LAND, IMPROVEMENTS TO LAND, BUILDINGS,
21 IMPROVEMENTS TO BUILDINGS, MACHINERY AND EQUIPMENT OF ANY KIND, OPERATING
22 CAPITAL AND ANY OTHER REAL OR PERSONAL PROPERTY NECESSARY FOR A PROJECT.

23 28-9302. Department; board; powers and duties

24 A. THE DEPARTMENT MAY ENGAGE IN ANY LAWFUL ACTIVITIES TO FACILITATE
25 THE DEVELOPMENT OF INTERNATIONAL TRADE OR COMMERCE BETWEEN THIS STATE AND
26 OTHER COUNTRIES, INCLUDING ANY OF THE FOLLOWING:

27 1. SOLICITING AND ACCEPT GRANTS OF MONIES, MATERIALS OR PROPERTY OF
28 ANY KIND FROM ANY ENTITY, ON SUCH TERMS AND CONDITIONS AS MAY BE ACCEPTABLE
29 TO THE DEPARTMENT.

30 2. MAKING AND ENTERING INTO CONTRACTS AND AGREEMENTS, INCLUDING
31 INTERGOVERNMENTAL AGREEMENTS PURSUANT TO TITLE 11, CHAPTER 7, ARTICLE 3, AND
32 EXECUTING ALL INSTRUMENTS, PERFORMING ALL ACTS AND DOING ALL THINGS NECESSARY
33 TO CARRY OUT THE POWERS GRANTED IN THIS CHAPTER, INCLUDING ENTERING INTO
34 PARTNERSHIP OR JOINT VENTURE AGREEMENTS WITH ANY ENTITY.

35 3. ADVISING AND CONSULTING WITH THE LEGISLATURE AND FEDERAL AND STATE
36 AGENCIES REGARDING METHODS, PROPOSALS, PROGRAMS AND INITIATIVES RELATING TO
37 INTERNATIONAL TRADE OR COMMERCE.

38 4. ACQUIRING, SELLING, LEASING AS LESSOR OR LESSEE OR OTHERWISE
39 DISPOSING OF ANY PROJECTS PERMITTED BY THIS CHAPTER ON THE TERMS AND
40 CONDITIONS THAT THE DEPARTMENT DEEMS ADVISABLE AND THAT ARE NOT IN CONFLICT
41 WITH THIS CHAPTER.

42 5. COOPERATING WITH OTHER PUBLIC AND PRIVATE ECONOMIC DEVELOPMENT
43 ORGANIZATIONS INVOLVED IN ENHANCING INTERNATIONAL TRADE OR COMMERCE AND
44 ECONOMIC DEVELOPMENT.

1 6. CONSULTING WITH COUNTIES, CITIES, TOWNS AND OTHER AGENCIES AND
2 POLITICAL SUBDIVISIONS OF THIS STATE RELATING TO PLANS AND PROJECTS
3 AUTHORIZED BY THIS CHAPTER.

4 7. ESTABLISHING IN EACH OF THE BORDER COUNTIES AN ADVISORY COUNCIL,
5 CONSISTING OF MEMBERS AND WITH POWERS AND DUTIES AS DETERMINED BY THE BOARD,
6 TO ADVISE AND COUNSEL THE DEPARTMENT IN CARRYING OUT ITS DUTIES. IN THOSE
7 COUNTIES WHERE A BORDER REGIONAL PORT AUTHORITY EXISTS ON THE EFFECTIVE DATE
8 OF THIS CHAPTER, THE DEPARTMENT SHALL DESIGNATE THAT BORDER REGIONAL PORT
9 AUTHORITY AS THE ADVISORY COUNCIL FOR THAT COUNTY. THE DEPARTMENT MAY
10 DESIGNATE ONLY ONE BORDER REGIONAL PORT AUTHORITY IN EACH COUNTY AS AN
11 ADVISORY COUNCIL.

12 8. DELEGATING THE POWERS AND DUTIES PRESCRIBED IN THIS SECTION TO A
13 BORDER REGIONAL PORT AUTHORITY. A BORDER REGIONAL PORT AUTHORITY THAT IS
14 DESIGNATED PURSUANT TO THIS PARAGRAPH MAY TAKE ACTIONS USING THOSE DELEGATED
15 POWERS ONLY ON THE APPROVAL OF AND WITH OVERSIGHT BY THE DEPARTMENT.

16 B. THE DEPARTMENT SHALL ESTABLISH AN APPLICATION PROCESS AND RELATED
17 PROCEDURES FOR USE BY THE DEPARTMENT IN EVALUATING ANY PROPOSED PROJECT. ANY
18 PROPRIETARY INFORMATION SUBMITTED TO THE DEPARTMENT BY ANY PRIVATE ENTITY IN
19 CONNECTION WITH ANY APPLICATION IS NOT A PUBLIC RECORD UNDER TITLE 39,
20 CHAPTER 1, ARTICLE 2, SHALL BE TREATED AS CONFIDENTIAL INFORMATION AND SHALL
21 NOT BE RELEASED WITHOUT THE EXPRESS CONSENT OF THE ENTITY SUBMITTING THE
22 INFORMATION.

23 C. IN DETERMINING WHETHER TO ACQUIRE OR APPROVE ANY PROJECT, THE BOARD
24 SHALL LIMIT CONSIDERATION TO PROJECTS THAT WILL BE PLACED SOLELY WITHIN THE
25 ARIZONA-MEXICO BORDER AREA.

26 D. BEFORE PROCEEDING WITH ANY PROJECT, THE BOARD SHALL ADOPT A
27 RESOLUTION APPROVING THE PROJECT, SETTING FORTH THE SCOPE OF THE PROJECT AND
28 STATING, AMONG OTHER THINGS, THAT THE BOARD HAS DETERMINED THAT THE PROJECT
29 WILL BE IN THE BEST INTERESTS OF THIS STATE.

30 E. THE BOARD SHALL NOT APPROVE A PROJECT UNLESS THE BOARD HAS
31 DETERMINED THAT THE PROJECT COMPLIES WITH ZONING AND OTHER APPLICABLE
32 DEVELOPMENT STANDARDS OF THE COUNTY, CITY OR TOWN WITH ZONING JURISDICTION
33 OVER THE PROPERTY ON WHICH IT IS TO BE LOCATED.

34 28-9303. Fees and charges; international ports development fund

35 A. THE DIRECTOR MAY FIX, ALTER, CHARGE AND COLLECT TOLLS, FEES AND
36 RENTS AND MAY IMPOSE ANY OTHER CHARGES FOR THE USE OF ANY FACILITY OR FOR
37 SERVICES RENDERED BY THE DEPARTMENT ON SUCH TERMS AND CONDITIONS AS MAY BE
38 PRESCRIBED BY THE DEPARTMENT.

39 B. THE INTERNATIONAL PORTS DEVELOPMENT FUND IS ESTABLISHED. THE BOARD
40 SHALL ADMINISTER THE FUND. ALL TOLLS, FEES, RENTS AND OTHER CHARGES IMPOSED
41 BY THE DIRECTOR AND ALL REVENUES, RECEIPTS AND OTHER MONIES RECEIVED BY THE
42 DEPARTMENT EXCEPT AS EXPRESSLY OTHERWISE PROVIDED IN THIS CHAPTER OR IN ANY
43 RESOLUTION ADOPTED BY THE BOARD IN CONNECTION WITH THE SALE OF ANY ISSUE OF
44 BONDS SHALL BE DEPOSITED IN THE INTERNATIONAL PORTS DEVELOPMENT FUND AND MAY
45 BE USED BY THE DEPARTMENT FOR TRANSPORTATION FACILITIES AND INFRASTRUCTURE

1 RELATED TO PORTS OF ENTRY. THE INTERNATIONAL PORTS DEVELOPMENT FUND MAY ALSO
2 CONSIST OF MONIES APPROPRIATED BY THE LEGISLATURE.

3 C. THE BOARD MAY ESTABLISH ACCOUNTS AND SUBACCOUNTS AS NECESSARY TO
4 PROPERLY ACCOUNT FOR AND USE MONIES RECEIVED PURSUANT TO THIS CHAPTER.

5 D. MONIES IN THE INTERNATIONAL PORTS DEVELOPMENT FUND MAY BE USED FOR:
6 1. PAYING COSTS TO ADMINISTER THE FUND AND TO CARRY OUT THE
7 REQUIREMENTS OF THIS CHAPTER.

8 2. PAYING THE COMPENSATION AND EMPLOYMENT RELATED EXPENSES ASSOCIATED
9 WITH THE EMPLOYMENT OF ADMINISTRATIVE STAFF AND PROFESSIONAL EXPERTS.

10 28-9304. Bonding

11 THE BOARD MAY ISSUE BONDS FOR THE PURPOSE OF ACQUIRING PROJECTS TO
12 FACILITATE INTERNATIONAL TRADE OR COMMERCE. THE BOARD SHALL ISSUE THE BONDS
13 AS PRESCRIBED IN CHAPTER 21 OF THIS TITLE.

14 28-9305. Monies from bond sales; use; acquisition of projects

15 A. THE BOARD SHALL DEPOSIT PROCEEDS DERIVED FROM THE SALE OF BONDS
16 UNDER THIS CHAPTER IN SEPARATE BANK ACCOUNTS IN BANKS OR TRUST COMPANIES THAT
17 ARE MEMBERS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION AND AS MAY BE
18 DESIGNATED BY THE BOARD. IF REQUIRED BY THE BOARD, THESE DEPOSITS SHALL BE
19 SECURED BY OBLIGATIONS ISSUED OR GUARANTEED BY THE UNITED STATES OF A MARKET
20 VALUE EQUAL AT ALL TIMES TO THE AMOUNT OF THE DEPOSIT. ALL BANKS AND TRUST
21 COMPANIES ARE AUTHORIZED TO GIVE THIS SECURITY. IN THE ALTERNATIVE, PROCEEDS
22 FROM THE SALE OF BONDS MAY BE INVESTED AND REINVESTED BY THE BOARD IN
23 OBLIGATIONS ISSUED OR GUARANTEED BY THE UNITED STATES. THESE MONIES SHALL BE
24 CONSIDERED AS HELD FOR AND ON BEHALF OF THE DEPARTMENT.

25 B. EXCEPT MONIES ALLOCATED FOR PAYMENTS OF COSTS OR FOR CAPITALIZED
26 RESERVE, FUNDS AND ALL OTHER MONIES OF THE DEPARTMENT DERIVED FROM THE SALE
27 OF BONDS SHALL BE USED TO ACQUIRE OR OPERATE PROJECTS UNDER THIS CHAPTER AND
28 SHALL BE DISBURSED AS DIRECTED BY THE BOARD AND IN ACCORDANCE WITH THE TERMS
29 OF ANY AGREEMENTS FOR THE BENEFIT OF THE HOLDERS OF THE BONDS.

30 C. THIS SECTION DOES NOT LIMIT THE POWER OF THE BOARD TO AGREE IN
31 CONNECTION WITH THE ISSUANCE OF THE BONDS AS TO THE CUSTODY AND DISPOSITION
32 OF MONIES RECEIVED FROM THE SALE OF THE BONDS OR THE INCOME AND REVENUE
33 PLEDGED AND ASSIGNED TO OR IN TRUST FOR THE BENEFIT OF THE HOLDERS OF THE
34 BONDS.

35 Sec. 2. Section 41-1504, Arizona Revised Statutes, is amended to read:

36 41-1504. Department powers and duties

37 A. The department shall:

38 1. Formulate policies, plans and programs designed to encourage
39 orderly planning and stimulate economic activity and the development and use
40 of solar energy in this state and to effectuate this chapter.

41 2. Stimulate and encourage all local, state, regional and federal
42 governmental agencies and all private persons and enterprises that have
43 similar and related objectives and purposes, cooperate with the agencies,
44 persons and enterprises and correlate department plans, programs and
45 operations with those of the agencies, persons and enterprises.

1 3. Conduct research on its own initiative or at the request of the
2 governor, the legislature or state or local agencies pertaining to any
3 department objectives.

4 4. Provide information and advice on request of any local, state or
5 federal agencies, private persons and business enterprises on matters within
6 the scope of department activities.

7 5. Consult with and make recommendations to the governor and the
8 legislature on all matters concerning department objectives.

9 6. Make annual reports to the governor and the legislature on its
10 activities, its finances and the scope of its operations.

11 7. Undertake a comprehensive research program designed to:

12 (a) Establish the department as the central repository and
13 clearinghouse for all data relating to this state's economy, energy and other
14 resources as they relate to economic planning and development.

15 (b) Maintain a current inventory of the resources of this state.

16 (c) Investigate potential opportunities for the development of energy,
17 industry and other commerce throughout this state.

18 8. Promote and encourage the location of new business in this state as
19 well as the maintenance and expansion of existing business in this state.
20 Such programs shall include a special focus on fostering the recruitment and
21 development of industries in the nonmetropolitan communities in this state.

22 9. Receive, administer and disburse federal energy monies for energy
23 programs which benefit this state.

24 10. Determine and collect registry fees for the administration of the
25 allocation of federal tax exempt industrial development bonds and student
26 loan bonds authorized by the department. Such monies collected by the
27 department shall be deposited, pursuant to sections 35-146 and 35-147, in a
28 department bond fund. Monies in the fund shall, subject to annual
29 appropriation by the legislature, be used by the department to administer the
30 allocations provided in this paragraph and are exempt from section 35-190.

31 11. Determine and collect security deposits for the allocation, for the
32 extension of allocations and for the difference between allocations and
33 principal amounts of federal tax exempt industrial development bonds and
34 student loan bonds authorized by the department. Security deposits forfeited
35 to the department shall be deposited in the state general fund.

36 12. Encourage the development, use and conservation of solar energy and
37 other renewable energy sources.

38 13. Establish and oversee the operations of export and import trade and
39 tourism offices in the Far East, the Republic of Mexico and Europe for the
40 purpose of expanding export trade opportunities for businesses and industries
41 located in Arizona if after research the department determines that such
42 establishment and oversight are feasible.

43 14. Establish and oversee the operations of a part-time export and
44 import trade and tourism office in Japan if an office has not been
45 established in Japan pursuant to paragraph 13 of this subsection and a

1 part-time export and import trade and tourism office in Canada for the
2 purpose of expanding export trade opportunities for businesses and industries
3 located in this state if the department determines that such establishment
4 and oversight are feasible.

5 15. On or before the conclusion of each calendar quarter, report to the
6 governor, the president of the senate and the speaker of the house of
7 representatives on the activities of the department relating to economic
8 planning and development. The report shall include the status of the
9 long-range strategic plan.

10 16. Establish a minority and women-owned business development program
11 to promote the economic development of minority and women-owned business
12 enterprises. The program shall provide data relating to minority and
13 women-owned businesses and shall promote utilization and development of the
14 state's minority and women entrepreneurs.

15 17. Establish a small business advocate office to promote the creation,
16 growth and vitality of Arizona small businesses and to act as an advocate for
17 small business interests before the governor, legislature and state agencies
18 as well as the community at large.

19 18. Cooperate with the Arizona-Mexico commission in the governor's
20 office and with researchers at universities in this state to collect data and
21 conduct projects in the United States and Mexico on issues that are within
22 the scope of the department's duties and that relate to quality of life,
23 trade and economic development in this state in a manner that will help the
24 Arizona-Mexico commission to assess and enhance the economic competitiveness
25 of this state and of the Arizona-Mexico region.

26 19. Through its clearinghouse on grant information, maintain data
27 regarding grants awarded by state agencies and universities. On or before
28 December 1 of each year, each state agency and university shall submit a
29 report to the department that includes information about each grant awarded
30 by the state agency or university in the preceding fiscal year. The
31 information shall include the amount of each grant, the recipient of each
32 grant and the purpose of each grant.

33 20. Be the state registration agency for apprenticeship functions
34 prescribed by the federal government.

35 B. The department, through the director, may:

36 1. Employ administrative, secretarial and clerical assistants and
37 contract for the services of outside advisers, consultants and aides
38 reasonably necessary or desirable to enable the department to adequately
39 perform its duties.

40 2. Contract and incur obligations reasonably necessary or desirable
41 within the general scope of department activities and operations to enable
42 the department to adequately perform its duties.

43 3. Utilize any media of communication, publication and exhibition in
44 the dissemination of information, advertising and publicity in any field of
45 its purposes, objectives or duties.

1 4. Adopt rules deemed necessary or desirable to govern its procedures
2 and business.

3 5. Contract with other agencies in furtherance of any department
4 program.

5 6. Use monies, facilities or services to provide matching
6 contributions under federal or other programs which further the objectives
7 and programs of the department.

8 7. Accept gifts, grants, matching monies or direct payments from
9 public or private agencies or private persons and enterprises for the conduct
10 of programs which are consistent with the general purposes and objectives of
11 this chapter.

12 ~~8. Notwithstanding section 41-1553.05, subsection A, provide staff~~
13 ~~support to the Arizona international development authority.~~

14 C. The department shall not advocate or take a position on any special
15 direct tax on any resident of this state for a sports facility or venue.

16 Sec. 3. Repeal

17 Title 41, chapter 10, article 7, Arizona Revised Statutes, is repealed.